IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10671 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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KAMLADEVI NARAYAN JOGI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 10671 of 2000

MR HM PRACHCHHAK for Petitioner No. 1

Mr.V.M.Pancholi, AGP for Respondent No. 1

NOTICE SERVED for Respondent No. 2

..... for Respondent No. 3

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 21/06/2002

ORAL JUDGEMENT

Rule. Mr.V.M.Pancholi waives service of rule on behalf of the respondent no.1.

2. Since a short point is involved and the matter is pending since about two years on admission Board in respect of the claim made by the petitioner who is the widow of the person who lost his life during cyclone while working at Jira Salt Factory, Kandla Port Trust on 9-6-1998 , it is taken up for final disposal at the instance of both the sides.

3. According to the petitioner, her husband Shri Narayan Jogi was working in a salt factory in Kandla and he died because of the cyclone that had hit that area on 9-6-1998. She made application for compensation, a copy of which is at Annexure "A" to the application dated 29-10-1998. In that application, she had stated that she had identified the dead body of her husband and his clothes which were shown to her in the control room at Gandhinagar. Again, on 7-9-1999, a communication was sent to the Collector on behalf of the petitioner for paying her compensation. Alongwith the communication relevant documents were forwarded to the Collector. These facts are not disputed by the respondent.

4. In the affidavit-in-reply in paragraph 4, it is stated that Shri Narayan Jogi was working as labourer in a salt factory at Kandla when cyclone hit that area on 9-6-1998 and that deceased Narayan Jogi originally belonged to Pali District and had come to Kandla for livelihood. However, the name of the factory in which he was working was not declared. Once it is established that he was working in a salt factory at Kandla and that he died because of the cyclone which struck the area on 9-6-1998, it would hardly be material as to in which factory he was working.

5. In paragraph 10 of the affidavit-in-reply, the respondent has stated that if the petitioner submits the application with all necessary information in the prescribed form through the Gandhidham Mamlatdar or the Collector stating that her husband died/disappeared in the stormy cyclone that struck the area on 9-6-1998, compensation would be paid to her after verifying the facts. It appears that emphasis is laid by the affidavit all throughout on the fact that the name of the petitioner's husband did not appear in the list of persons. However, the petitioner has asserted that her husband died and had stated that fact in her application dated 29-10-1998 at Annexure "A" to the petition. It was asserted by her that she had seen photograph of the dead body of her husband in the control room and had identified his clothes. She had also stated that he was

serving in a salt factory at Kandla. Further documents were also provided to the Collector under the communication dated 7-10-1999 at Annexure "B". Therefore, the authorities could not have rejected the petitioner's claim simply because the name of her husband was not written in the list which was prepared by the authorities.

6. In the above view of the matter, the respondents are directed to consider the case of the petitioner about compensation payable in similar cases of death/disappearance due to the cyclone that had struck Kandla on 9-6-1998 and take a decision in the matter within two weeks from the date of service of this order. Rule is made absolute accordingly with no order as to costs.

(R.K.Abichandani,J.)

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